

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

BRIAN PATRICK HERRIMAN,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION FOR HEARING

Case No. 2:05-CR-212 TS

Defendant seeks a supervised release revocation hearing. Defendant states he is currently in state custody with a federal detainer. Because Defendant appears pro se, the court construes his filing liberally.¹

Rule 32.1 of the Federal Rules of Criminal Procedure proves that “[a] person held in custody for violating . . . supervised release must be taken without unnecessary delay before a magistrate judge.”² Because Defendant is currently held in state custody, he is

¹*Erickson v. Pardus*, 127 S.Ct. 2197, 2200 (2007).

²Fed. R. Crim. P. 32.1(a).


not “held in custody *for* violating . . . supervised release.”³ Defendant will not be entitled to a hearing on his supervised release matters until he is transferred to federal custody.⁴

It is therefore

ORDERED that Defendant’s Motion for supervised release revocation hearing (Docket No. 47) is DENIED.

DATED August 5, 2009.

BY THE COURT:



TED STEWART
United States District Judge

³*Id.* (emphasis added).

⁴*United States v. Swenson*, 250 Fed. Appx. 838, 840 (10th Cir. 2007) (unpublished case holding that “Rule 32.1(a) entitles only those currently in federal custody to a hearing”).